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From: Sachi A. Hamai
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WASHINGTON, D.C. UPDATE ON THE MEDICARE ACCESS AND CHIP REAUTHORIZATION ACT OF 2015

Executive Summary

This memorandum is to provide the Board with an update on the "Medicare Access and CHIP Act Reauthorization Act of 2015" (H.R. 2), which will be on the Senate floor on the week of April 13, 2015.

On March 26, 2015, the House passed H.R. 2 on a 392 to 37 vote with broad bipartisan support. Its most important element is a permanent Medicare "doc fix" to a Medicare physician payment rate formula which would trigger deep cuts in physician payments by replacing it with a new payment methodology which would provide annual rate increases. The bill also provides two-year extensions through Federal Fiscal Year (FFY) 2017 of the Children's Health Insurance Program (CHIP); the Express Lane Eligibility option, which has facilitated the enrollment of children into Medi-Cal in California; and the Maternal, Infant and Early Childhood Home Visiting Program, which funds in-home visitation services provided to at-risk pregnant women and parents with young children.

The bill also would reduce net Medicaid Disproportionate Share Hospital (DSH) funding by an estimated $4.1 billion through FFY 2025, mainly by adding an $8.0 billion DSH funding cut in FFY 2025. However, the bill eliminates a scheduled $1.8 billion DSH cut in FFY 2017 and reduces DSH cuts in FFYs 2018 through 2020 while increasing the DSH cuts after FFY 2020.

Medicare "Doc Fix" in the Medicare Access and CHIP Act Reauthorization Act

On March 26, 2015, the House passed the Medicare Access and CHIP Act Reauthorization Act of 2015 (H.R. 2) with strong bipartisan support. The bill is a compromise negotiated by Speaker Boehner (R-OH) and Minority Leader Pelosi (D-CA) on a Medicare "doc fix" to avert Medicare physician payment reduction of 21 percent, which was to take effect on April 1, 2015. The Senate adjourned for its two-week recess on March 27, 2015 without clearing H.R. 2 for the President's signature. However, the 21 percent cut has not yet been applied to physician payments because the Centers for Medicare and Medicaid Services is delaying the processing of doctors' claims until April 15, 2015 in the hope that the Senate will clear the bill for the President's signature soon after it reconvenes on April 13, 2015.

Under current law, the 21 percent Medicare physician payment reduction is triggered by the Medicare sustainable growth rate (SGR) used to determine Medicare physician payment rates since the SGR was enacted in 1997. The SRG is designed to ensure that real Medicare spending per beneficiary for physician services will grow on average at the rate of increase in the gross domestic product per capita minus the expected rate of increase in productivity for the economy. The SGR produced annual rate increases through 2001, but triggered a 4.8 percent Medicare physician payment cut in 2002. It also would have triggered another cut in 2003 and increasingly deeper cuts in subsequent years, but Congress has enacted 17 Medicare "doc fix" laws since 2002 to avert SGR-triggered cuts. The most recent one-year Medicare "doc fix" expired on March 31, 2015.

H.R. 2 repeals the SGR, and replaces it with a new Medicare physician payment schedule, which would provide annual increases in physician payments. The Congressional Budget Office (CBO) estimates that this change will increase Federal spending by $175 billion in FFYs 2015 through 2025 and that the entire bill would increase the Federal budget deficit by $141 billion through FFY 2025.

The bill waives "pay-as-you go" budget rules, which otherwise would require an additional $141 billion in offsetting spending cuts to ensure that it is budget neutral. The House leadership of both parties essentially decided that it is better to permanently repeal the SGR-triggered cuts and increase the budget deficit than to be forced to continually enact short-term Medicare "doc fixes" with offsetting spending cuts or revenue increases. For many years, there has not been any support for using the SGR formula, but the main obstacle to repealing it has been the high cost of doing so.

Children's Health Insurance Program Reauthorization

The bill reauthorizes the Children's Health Insurance Program (CHIP), which provides health coverage to children in families with incomes too high to qualify for Medicaid, for two years through FFY 2017. The CBO estimates that the bill's CHIP reauthorization provisions would increase Federal spending by $7.0 billion over 10 years, which would be partially offset by an estimated $1.4 billion in savings, such as reduced ACA health insurance subsidies. In comparison, combined FFYs 2014 and 2015 CHIP funding totals $40.2 billion.

Medicaid Disproportionate Share Hospital (DSH) Reductions

H.R. 2 would reduce net Medicaid DSH spending by $4.1 billion over 10 years through FFY 2025, as estimated by the CBO, to help offset the added cost of other provisions which increase spending. The bill eliminates the $1.8 billion reduction in FFY 2017 DSH allotments to states that is scheduled under current law, decreases scheduled DSH cuts in FFYs 2018 through 2020, increases DSH cuts in FFYs 2021 through 2024, and adds a DSH cut of $8.0 billion in FFY 2025. In short, it would increase Medicaid DSH funding in FFYs 2017 through 2020, but reduce DSH funding in FFYs 2021 through 2025.

The Affordable Care Act (ACA) enacted reductions in annual Medicaid DSH allotments to states beginning at $500 million in FFY 2014 and increasing to $4.0 billion in FFY 2020. After FFY 2020, annual DSH allotments would revert back to pre-ACA levels, which means that the FFY 2021 DSH funding level would have equal the FFY 2013 DSH funding level of approximately $11.54 billion, adjusted upward for annual increases in the Consumer Price Index.

Since the ACA's enactment, Congress has enacted several laws to extend the ACA's Medicaid DSH cuts for one year at a time and modify the DSH cuts in a manner which reduces Federal spending over the next 10 years by $3 to 4 billion, as estimated by the CBO. Similar to H.R. 2, both the Bipartisan Budget Act (Public Law 113-67) enacted in December 2013 and the Medicare "doc fix" bill (Public Law 113-93) enacted in April 2014 delayed the first year of the DSH cuts, shifted more of the DSH cuts to later years, and used a net 10-year reduction in DSH spending as an offset for other provisions which increase Federal spending.

Extensions of Expiring Programs and Provisions of County Interest

In addition to extending CHIP for two years, the bill also extends the following programs and provisions of County interest:

- **Express Lane Eligibility Option,** which allows states to use findings relating to income, household size, and other eligibility criteria from other programs such as the Supplemental Nutrition Program (CalFresh in California) or Temporary Assistance for Needy Families (CalWORKs in California) in determining eligibility for Medicaid and CHIP, is extended for two years through FFY 2017. This option has facilitated and simplified the enrollment of children into Medi-Cal in California, which uses this option.

- **Maternal, Infant, and Early Childhood Home Visiting Program,** which funds evidenced-based in-home visitation services provided to at-risk pregnant women and parents with young children, through FFY 2017. The bill provides $400 million a year in FFYs 2016 and 2017 for the program.

- **Transitional Medicaid Assistance (TMA),** which requires states to continue Medicaid benefits for families who otherwise would lose eligibility due to increased earnings, is permanently extended. The current authorization for TMA expired on March 31, 2015. The CBO estimates that TMA would result in net Federal savings of $2.8 billion over the next 10 years because Federal savings in ACA health insurance subsidies would more than offset increase Medicaid spending.

Legislative Outlook

The Senate is expected to begin floor action on H.R. 2 on the week of April 13, 2015. It is expected that the Senate will send the bill to the President to avert the 21 percent reduction in Medicare physician payments which otherwise could take effect as early as April 15, 2015. However, some fiscally conservative Republicans are threatening to delay the Senate action on the bill because they oppose its estimated $141 billion increase in the Federal budget deficit. The Obama Administration has indicated that the President would sign the bill.

We will continue to keep you advised.

SAH:JJ:MR
MT:ma

c: All Department Heads
Legislative Strategist